

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

YURI COUTO, AN INDIVIDUAL,

Plaintiff,

vs.

USAA FEDERAL SAVINGS BANK, A
DELAWARE CORPORATION,

Defendant.

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SA-23-CV-01389-XR

ORDER

Before the Court in the above-styled cause of action is Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs [#7], which was referred to the undersigned on December 15, 2023. The undersigned therefore has authority to enter this order pursuant to 28 U.S.C. § 636(b)(1)(A). By his motion, Plaintiff seeks leave to proceed *in forma pauperis* ("IFP") based on an inability to afford court fees and costs. Having considered the motion and documentation provided by Plaintiff, the Court will grant the motion.

All parties instituting any civil action, suit, or proceeding in a district court of the United States, except an application for a writ of habeas corpus, must pay a filing fee of \$350, as well as an administrative fee.¹ See 28 U.S.C. § 1914(a). The record reflects that Plaintiff initiated this case on October 30, 2023, by submitting payment of the filing fee by check along with his Complaint. Summons was issued, and Defendant was served on November 15, 2023. Defendant thereafter entered an appearance by filing a motion to dismiss, which remains pending before the

¹ The administrative fee, which is currently \$55, is waived for plaintiffs who are granted IFP status. See *District Court Miscellaneous Fee Schedule*, available at <http://www.uscourts.gov/services-forms/fees/district-court-miscellaneous-fee-schedule>.

District Court. That same day, Plaintiff filed the motion to proceed IFP currently before the Court, as well as an advisory regarding an issue with Plaintiff's payment of the filing fee. There were insufficient funds to cover the filing fee, and Plaintiff is now requesting permission to proceed IFP.

Plaintiff's motion to proceed IFP includes his income and asset information, which indicates that he does not have sufficient monthly resources available to pay the filing fee. The Court will therefore grant the motion to proceed IFP. Because Plaintiff's Complaint has already been docketed and served on Defendant, and Defendant has already filed a motion to dismiss, the undersigned will not review Plaintiff's complaint under 28 U.S.C. § 1915(e) to determine whether the Complaint should be served. The undersigned notes that the deadline for Plaintiff to respond to the motion to dismiss was December 20, 2023. *See* W.D. Tex. Loc. R. CV-7(d). Plaintiff did not respond. Given that Plaintiff had a pending motion to proceed IFP during the response period, the Court will impose a new deadline for Plaintiff to respond to the motion to dismiss.

IT IS THEREFORE ORDERED that Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs [#7] is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff shall **FILE** any response to Defendant's Motion to Dismiss [#6] **on or before January 17, 2023**. Failure to file a response could result in the District Court construing Defendant's motion to dismiss as unopposed.

SIGNED this 3rd day of January, 2024.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE